IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 15933 of 2004

Between:

V. Balaji Rao, S/o Nageswararao,
Managing Partner, Sri Balaji Theatre, Perala, Chirala, Prakasam District.

..... PETITIONER

AND

1 Joint Collector and Licensing Authority, Prakasam District at Ongole.
2 Revenue Divisional Officer, Ongole, Prakasam District.
3 Superintendent of Police, Prakasam District, Ongole.
4 Mandal Revenue Officer, Chirala Mandal, Prakasam District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of mandamus declaring the order, dt. 1-9-2004 in Rc.C1/1211/2004 is illegal irregular, without power or authority and violated by lack of jurisdiction and also violative of principles of natural justice and provisions of A.P. Cinemas (Regulation) Act 1955 and rules framed thereunder and offend articles 14, 19 (1) (G) and 21 of the Constitution of India, setaside the same and consequently direct the respondents to restore the license.

Counsel for the Petitioner:MR.SATYANARAYANA NIMMAGADDA

Counsel for the Respondents: GP FOR HOME

The Court at the stage of admission made the following Order:

Heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondents.

The petitioner seeks a writ of Mandamus declaring the action of the respondents in suspending the B-Form licence of the petitioner theatre for one month under the impugned proceedings dated 01-09-2004, as arbitrary and illegal.

It is not in dispute that the impugned order has been passed in exercise of powers under Section 10 (2) of the Andhra Pradesh Cinemas (Regulation) Act 1955 (for short 'the Act). The contention of the petitioner is that while suspending the licence under Section 10 (2) of the Act, it is mandatory to afford an opportunity of showing cause to the licensee. Since, admittedly, no such opportunity was afforded to the petitioner before passing the impugned order, it is contended that the impugned order is unsustainable and liable to be set aside.

This Court, while directing notice to the respondents by order dated 03-09-2004, granted interim suspension of the impugned order, since a prima facie case was made out that the impugned order, which was passed without notice to the petitioner, is not in conformity with Section 10(2) of the Act.

Even though, the matter underwent five adjournments, no counter-affidavit has been filed by the respondents and nothing has been placed before this Court to show that the petitioner was afforded an opportunity to show cause before passing the impugned order.

In the circumstances, I am not inclined to keep the writ petition pending any longer. Accordingly, the impugned order dated 01-09-2004 is set aside and the writ petition

is disposed of leaving it open to the respondents to pass orders afresh after affording due opportunity to the petitioner to rebut the allegations.

The writ petition is accordingly disposed of. No costs.

_____

27-10-2004

kdl

To

1 Joint Collector and Licensing Authority, Prakasam District at Ongole.
2 Revenue Divisional Officer, Ongole, Prakasam District.
3 Superintendent of Police, Prakasam District, Ongole.
4 Mandal Revenue Officer, Chirala Mandal, Prakasam District.

5 Two C.Cs. to the Government Pleader for Home, High Court Buildings, A.P., Hyderabad, (OUT).

6 Two C.D. Copies.